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RICHARD W. WIL  
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NORTHERN DISTRICT OF  
SAN JOSE

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Attorneys for Plaintiff  
Plantronics, Inc.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PLANTRONICS, INC.,

a Delaware corporation,

Plaintiff,

v.

AIRLINK MOBILE, INC.,

an Iowa corporation,

Defendant.

Case 007

02452

COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF ARISING OUT  
OF:

1. Patent Infringement - 35 U.S.C. § 271;
2. Trade Dress Infringement - 15 U.S.C. § 1125; and
3. Unfair Competition - Cal. Bus. & Prof. Code § 17200

DEMAND FOR JURY TRIAL

1 Plaintiff Plantronics, Inc. ("Plantronics"), for its complaint against Defendant Airlink  
2 Mobile, Inc. ("Airlink"), dba "Airlink Accessories," alleges as follows:

3 **Jurisdiction and Venue**

4 1. Pursuant to 28 U.S.C. §§ 1331 and 1338, this Court has jurisdiction over the federal  
5 claims alleged herein. Pursuant to 28 U.S.C. § 1367, this Court has jurisdiction over the state law  
6 claim because it arises from a nucleus of operative facts common to the federal claims.

7 2. Pursuant to 28 U.S.C. § 1391(b), venue is proper in the Northern District of  
8 California because at all times material to this action, a substantial part of the events or omissions  
9 giving rise to the claims occurred in this District.

10 **The Parties**

11 3. Plantronics is a Delaware corporation with its principal place of business at 345  
12 Encinal Street, Santa Cruz, California, 95060.

13 4. Airlink, dba "Airlink Accessories," is an Iowa corporation with its principal place  
14 of business at 1325 Stamy Road, Hiawatha, Iowa, 52233. Airlink also operates a location at  
15 15333 North Pima Road, Scottsdale, Arizona, 85260.

16 **Intradistrict Assignment**

17 5. Pursuant to Civil Local Rule 3-2(c) and the Court's Assignment Plan, because this  
18 action is an Intellectual Property Action, it is properly assigned to any of the divisions in the  
19 Court.

20 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

21 **Plantronics' Business and Patented Products**

22 6. Plantronics introduced the first lightweight communications headset in 1962, and is  
23 today a leading designer, manufacturer, and marketer of lightweight communications headset  
24 products for telephones and cellular telephones, telephone headset systems, telephone accessories,  
25 and related services for business and personal use.

26 7. Plantronics has invested multiple millions of dollars developing a proprietary line  
27 of mobile headset products, including its patented MX150 mobile headset.  
28

8. On September 30, 2003, United States Letters Patent No. Des. 480,072 (**Exhibit A**, hereinafter "the '072 patent") was duly and legally issued for an invention entitled "Microphone Boom for a Headset."

9. Plantronics' MX150 mobile headset is an embodiment of the invention claimed in the '072 patent.

10. Plantronics is the assignee and owner of all rights, title, and interest in the '072 patent.

11. Plantronics' products, including the patented MX150 mobile headset, are unique and have no equal in the marketplace.

## Airlink's Business

12. Airlink's web site ([www.airlinkmobile.com](http://www.airlinkmobile.com)) represents that Airlink "is a leading provider of nationwide wireless products and services."

13. Airlink's services include pay-as-you-go wireless telephone service with nationwide coverage, including this District. On information and belief, Airlink's services are sold at over 5,000 retailers across the country. On information and belief, Airlink's services are also sold online.

14. Airlink's products include cellular telephone accessories such as headsets. On information and belief, Airlink's products are sold at retailers across the country.

## Airlink's Copycat "Hands Free Headset"

15. Airlink sells a headset for use with cellular telephones. This product is labeled by Airlink as "Hands Free Headset."

16. The design and appearance of Airlink's "Hands Free Headset" is overtly copied from the Plantronics MX150 product.

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17. As the photograph below demonstrates, Airlink's "Hands Free Headset" (shown on the left) is virtually identical to the patented Plantronics MX150 product (shown on the right).



18. Plantronics' MX150 mobile headset has been on the market since 2002, and is well known to the public and to Airlink.

19. Unless Airlink's conduct is enjoined, Airlink's disregard of Plantronics' rights will result in irreparable harm to Plantronics.

**Count I - Design Patent Infringement of U.S. Patent No. Des. 480,072 – 35 U.S.C. § 271**

20. Plantronics realleges and incorporates by reference the allegations contained in paragraphs 1 through 19.

21. Airlink makes, uses, offers to sell, sells, and/or imports its "Hands Free Headset" product, or enables and/or induces others to commit such acts.

22. Airlink is infringing the claims of the '072 patent by making, using, selling, offering for sale, and/or importing for sale its "Hands Free Headset" product, or by enabling and/or inducing others to commit such acts.

23. Airlink will continue to commit such acts of infringement unless enjoined by this Court.

**Count II – Trade Dress Infringement– 15 U.S.C. § 1125**

24. Plantronics realleges and incorporates by reference the allegations contained in paragraphs 1 through 19.

25. The total image of the Plantronics MX150 product, including its size, shape, and product design, constitutes protectable trade dress.

26. The trade dress of the Plantronics MX150 product is non-functional.

27. The trade dress of the Plantronics MX150 product is distinctive; it identifies Plantronics as the single source of the product, thereby distinguishing it from other products. Additionally, the trade dress has acquired secondary meaning as the consuming public has come to associate the design of the product with Plantronics.

28. Airlink's use of a trade dress similar to that of the Plantronics MX150 product in Airlink's product is likely to cause confusion among consumers and others regarding the source, origin, association, and/or sponsorship of the "Hands Free Headset" product, implying that Airlink and/or Airlink's "Hands Free Headset" product has a commercial relationship, association, or affiliation with Plantronics and/or Plantronics' MX150 mobile headset product.

29. Airlink's actions constitute trade dress infringement in violation of the Lanham Act, 15 U.S.C. § 1125(a). Plantronics has been and will continue to be injured as a result of Airlink's conduct. Plantronics has no adequate remedy at law for these injuries. Unless Airlink is restrained by this Court from continuing to infringe the trade dress of the Plantronics MX150 product, these injuries will continue to accrue.

**Count III - Unfair Competition - Cal. Bus. & Prof. Code § 17200**

30. Plantronics realleges and incorporates by reference the allegations contained in paragraphs 1 through 29.

31. Airlink's deliberate copying and imitation of the Plantronics MX150 product is an act of unfair competition, in violation of Section 17200 of the California Business and Professions

1 Code, defined therein to mean "any unlawful, unfair or fraudulent business act or practice and  
2 unfair, deceptive, untrue or misleading advertising."

3 32. Airlink has engaged in unfair competition by the acts complained of herein and has  
4 caused Plantronics substantial injury. Plantronics has no adequate remedy at law for these  
5 injuries. Unless Airlink is restrained by this Court from continuing its acts of unfair competition,  
6 these injuries will continue to accrue.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plantronics prays for judgment as follows:

9 A. That this Court adjudge and decree that the '072 patent is valid and enforceable;

10 B. That this Court adjudge and decree that Airlink has infringed the claims of the '072  
11 patent;

12 C. That this Court permanently enjoin Airlink, its owners, officers, agents, servants,  
13 employees, attorneys, successors, and assigns, and all others in active concert or participation with  
14 Airlink, from continued infringement of the '072 patent;

15 D. That Plantronics be awarded Airlink's profits under 35 U.S.C. § 289;

16 E. That Plantronics be awarded damages against Airlink for infringement of the '072  
17 patent;

18 F. That this Court adjudge and decree that Airlink has engaged in trade dress  
19 infringement in violation of 15 U.S.C. § 1125(a);

20 G. That this Court permanently enjoin Airlink, its owners, officers, agents, servants,  
21 employees, attorneys, successors, and assigns, and all others in active concert or participation with  
22 Airlink, from continued trade dress infringement in violation of 15 U.S.C. § 1125;

23 H. That Plantronics be awarded damages against Airlink under 15 U.S.C. § 1117;

24 I. That this Court adjudge and decree that Airlink has engaged in unfair competition  
25 in violation of § 17200 of the California Business and Professions Code;

26 J. That this Court permanently enjoin Airlink, its owners, officers, agents, servants,  
27 employees, attorneys, successors, and assigns, and all others in active concert or participation with  
28 Airlink, from continued unfair competition in violation of § 17200;

- 1 K. An order disgorging from Airlink profits for violation of § 17200;  
2 L. An award for Plantronics' costs and attorneys' fees; and  
3 M. Any other relief this Court deems just and proper.  
4

5 Dated: May 7, 2007.

6 Respectfully submitted,

7 IRELL & MANELLA LLP  
8 Samuel K. Lu  
9 Alexandra H. Young

10 By: Alexandrea H. Young  
11 Alexandra H. Young  
12 Attorney for Plaintiff Plantronics, Inc  
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**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b) and Civil L.R. 3-6(a), Plaintiff Plantronics, Inc.  
respectfully demands a jury trial on any and all issues triable as of right by a jury in this action.

Dated: May 7, 2007.

Respectfully submitted,

IRELL & MANELLA LLP  
Samuel K. Lu  
Alexandrea H. Young

By: Alexandrea H. Young  
Alexandrea H. Young  
Attorney for Plaintiff Plantronics, Inc.



EXHIBIT A



US00D480072S

(12) **United States Design Patent** (10) Patent No.: **US D480,072 S**  
**Ham** (45) Date of Patent: **\*\* Sep. 30, 2003**

(54) **MICROPHONE BOOM FOR A HEADSET**

(75) Inventor: **Soohyun Ham, Santa Cruz, CA (US)**

(73) Assignee: **Plantronics, Inc., Santa Cruz, CA (US)**

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/173,871**

(22) Filed: **Jan. 7, 2003**

(51) LOC (7) Cl. .... **14-01**

(52) U.S. Cl. .... **D14/223**

(58) Field of Search ..... **D14/188, 192,**  
**D14/205-206, 223; 181/129, 130; 379/430,**  
**433; 381/370, 376, 377, 378, 379, 380,**  
**381**

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\* cited by examiner

Primary Examiner—Paula A. Mortimer

(74) Attorney, Agent, or Firm—Peter Hsieh

(57) **CLAIM**

The ornamental design for a microphone boom for a headset, as shown and described.

**DESCRIPTION**

FIG. 1 is a lower rear left perspective view of a microphone boom for a headset, the broken line drawing of an earloop of the headset in drawings herein is for illustrative purposes only and forms no part of the claimed design;

FIG. 2 is a lower front right perspective view;

FIG. 3 is a front elevational view;

FIG. 4 is a right side elevational view;

FIG. 5 is a rear elevational view;

FIG. 6 is a left side elevational view;

FIG. 7 is a top plan view; and,

FIG. 8 is a bottom plan view.

**1 Claim, 4 Drawing Sheets**

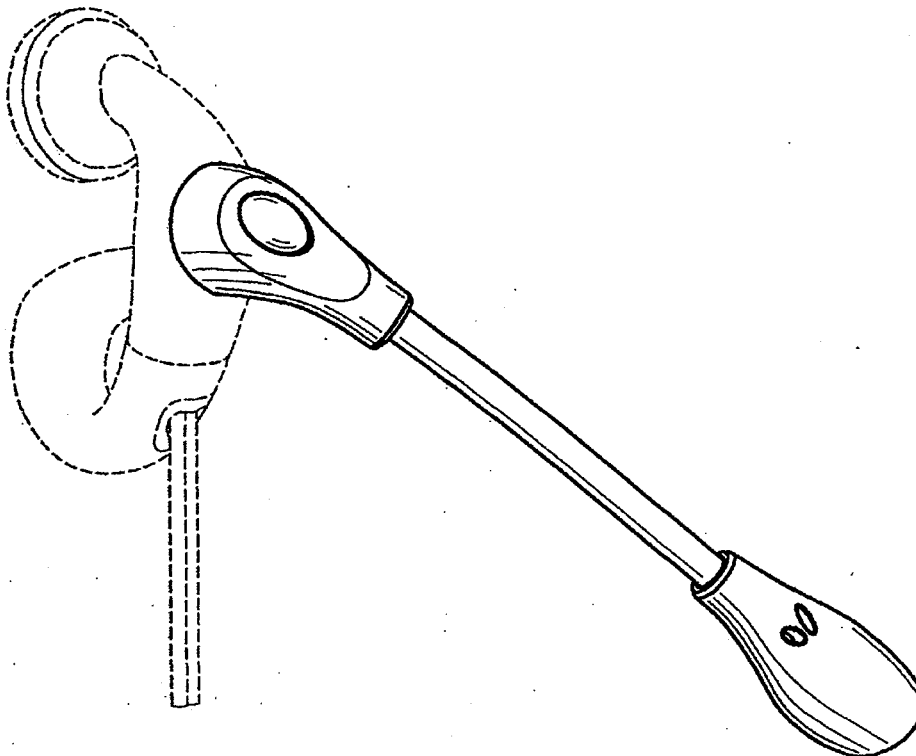


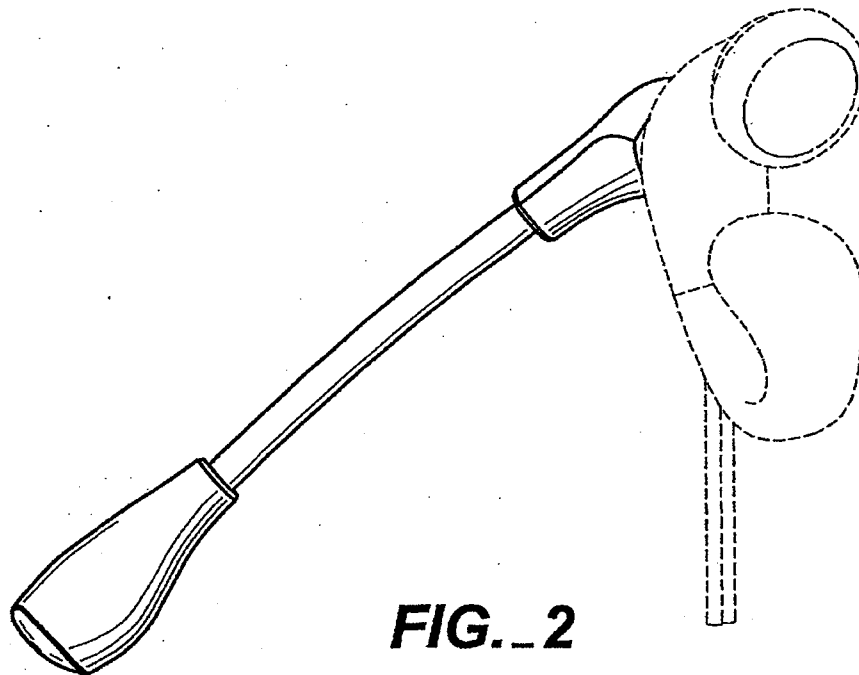
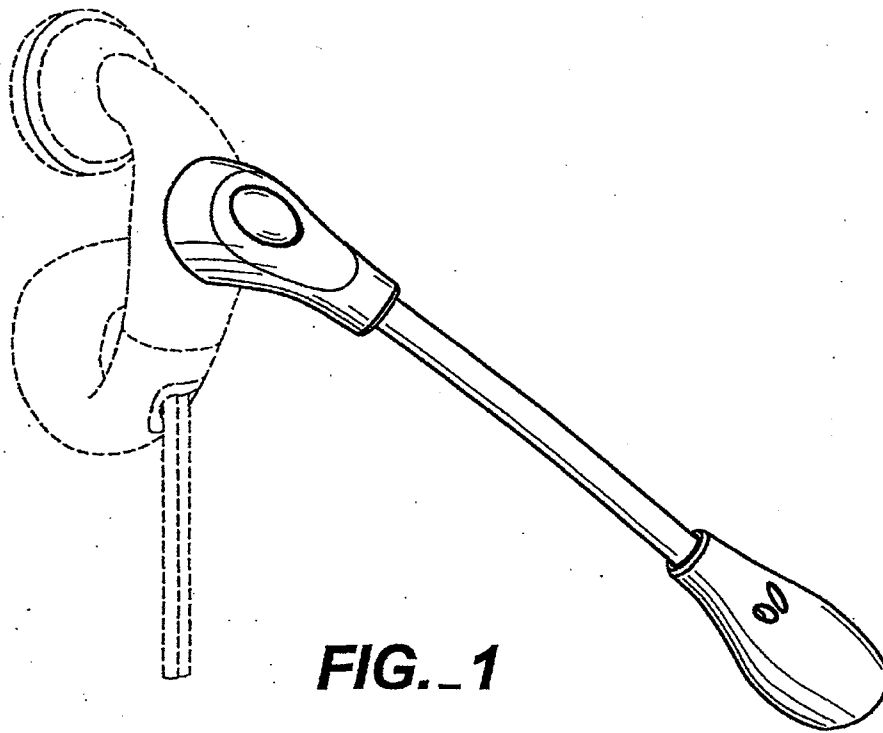
EXHIBIT A

**U.S. Patent**

**Sep. 30, 2003**

**Sheet 1 of 4**

**US D480,072 S**

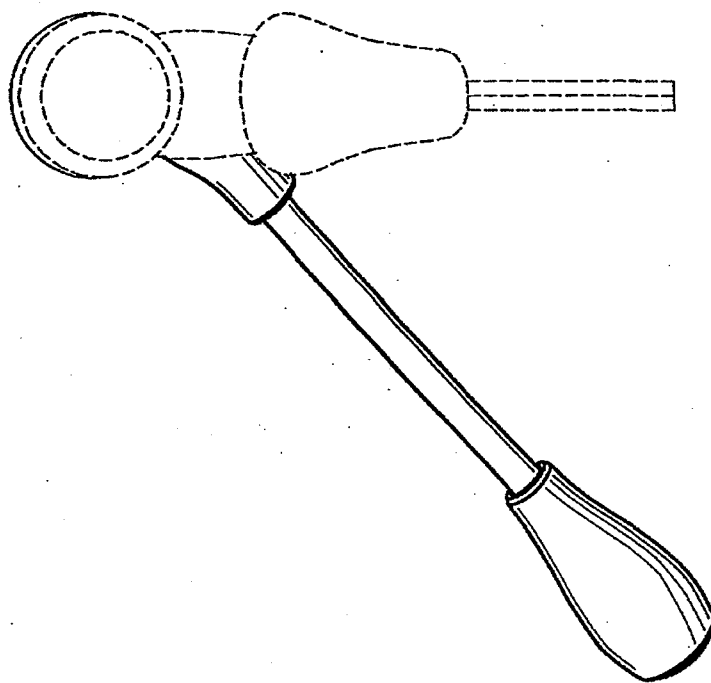


**U.S. Patent**

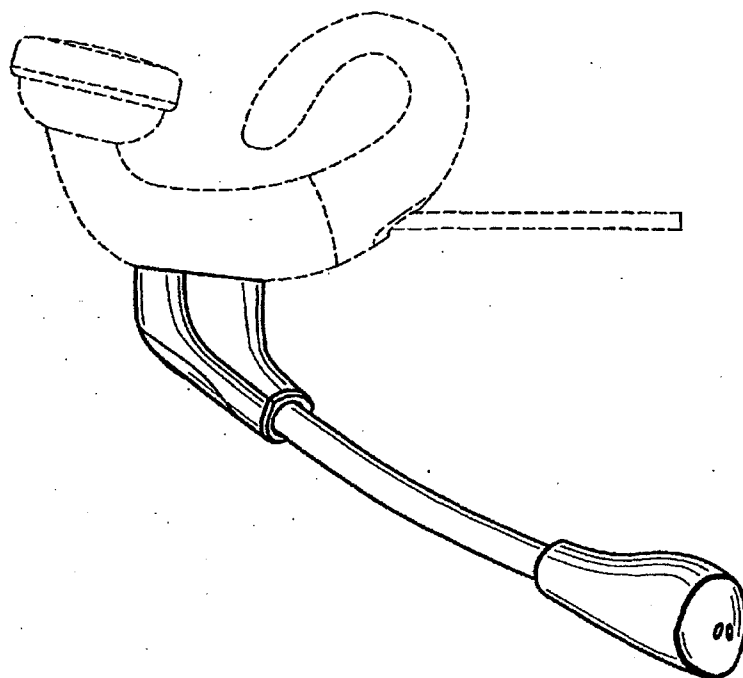
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Sheet 2 of 4

**US D480,072 S**



**FIG. 4**



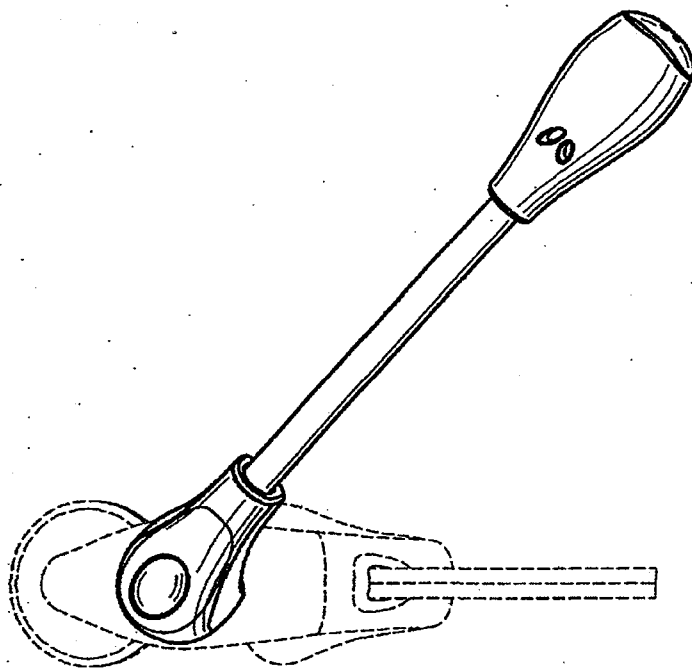
**FIG. 3**

**U.S. Patent**

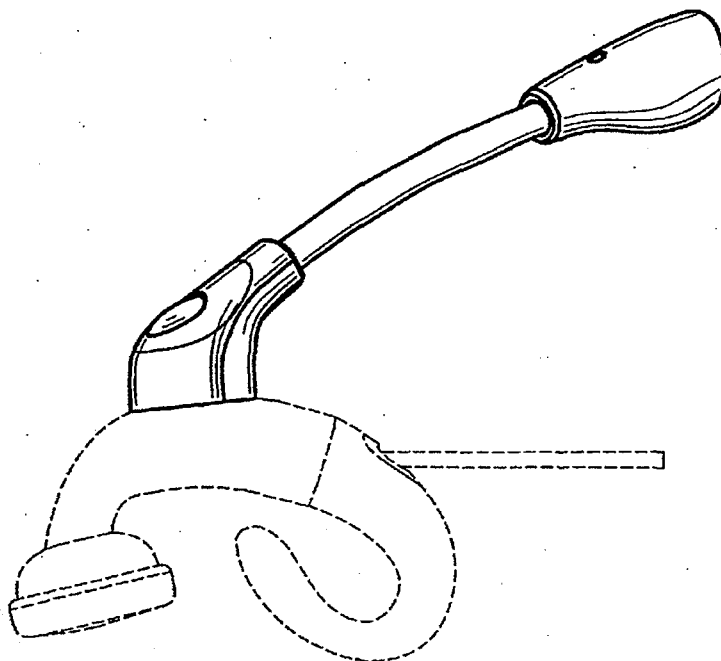
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**Sheet 3 of 4**

**US D480,072 S**



**FIG. 6**



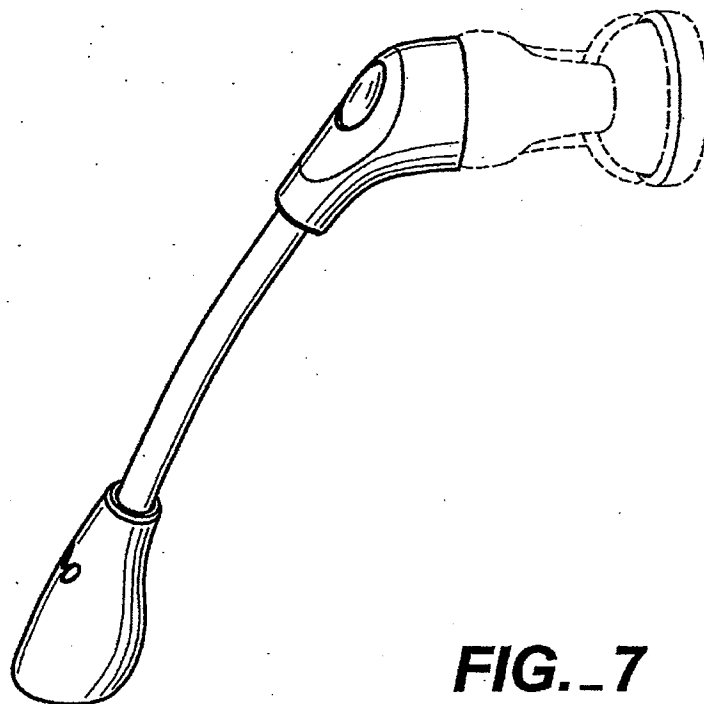
**FIG. 5**

**U.S. Patent**

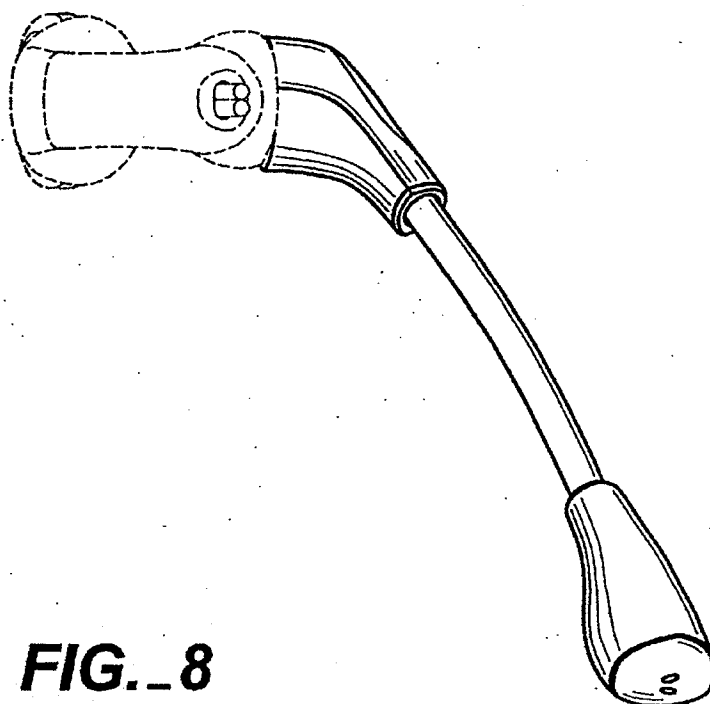
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**FIG.\_7**



**FIG.\_8**